A 15 (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Single Bench

C.R. NO. 128 /2006

APPLICANT : **KAWAL SINGH MARKANDE**,
DEFENDANT
Aged about 56 years,
S/o. Balwant Singh markande
R/o. Behind Vishwakarma Floor Mill
Village-Shivpuri Jamul, Tahsil &
District Durg (C.G.)

P.R. No. 94/8/06
Presented by Shri M.T. Haider
dated 22/8/06

VERSUS

RESPONDENT : **RAM SINGH**
PLAINTIFF
S/o. Hariwansh Singh
Aged about 30 years
R/o. Village Shivpuri Jamul, Tahsil
and District Durg (C.G.)

CIVIL REVISION UNDER SECTION 115 OF THE CODE OF CIVIL PROCEDURE

(28)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R. 129/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06/09/2006

Shri D.N. Prajapati counsel for the applicant.

Heard on the question of admission.

The applicant has filed this revision petition under section 115 of the Code of Civil Procedure against the order dated 28.9.2005 passed by Second Civil Judge Class I Durg in Civil Suit No. 97-A/2005 by which the application preferred by the defendant under Order 7 Rule 11 of the CPC has been rejected on the ground that the plaintiff has properly valued his suit and accordingly paid the court fee.

Learned counsel for the applicant submits that even according to the plaint the plaintiff has made stipulation in paragraphs 4 and 5 of the plaint that there was an oral agreement with respect to the sale of the property between the plaintiff and the defendant and accordingly a sum of Rs. 54,000/- was received by the plaintiff by way of advance out of the agreed total consideration of Rs. 1,03,000/- and in the aforesaid circumstances the plaintiff was required to value the suit according to the market value of the property i.e. 1,03,000. However, the plaint has been valued on the basis of monthly rent which is not in accordance with law and the Court below has summarily rejected the application preferred by the defendant by recording a finding that the plaint is properly valued. In support of the argument learned counsel has cited the Full Bench Judgment of the Madhya Pradesh High Court in the matter of **Subhash Chand Jain Vs. Chairman, MPEB and others** reported in **2001 (1) JLJ**

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मामला क्रमांक C.R. 129/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –2–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

81 and in the matter of Dhiraj and others Vs. M/s Chordia Brothers and others reported in 2000(II) MNS 29 .

I have heard learned counsel for the applicant and perused the plaint as well as the impugned order.

The plaintiff has pleaded in his plaint that the defendant was occupying the suit accommodation since October 2000 on a monthly rent of Rs. 1,500/- and subsequently there was an oral agreement between them with respect to the sale of the said property for a consideration of Rs. 1, 03,000/- ,and Rs. 54,000/- were received by him by way of advance. However, since the defendant did not pay the remaining consideration nor he got the suit accommodation registered in his name the suit for eviction was filed after giving due notice to the defendant.

In the matter of Dhiraj and others (supra) it has been held that the assessed value of the property by the plaintiff is to be seen. The above suit was for cancellation of the sale deed and in the aforesaid circumstances, the plaintiff was required to put the value of the suit as assessed by him. In the case of Subhash Chand Jain (supra) also the suit was filed for the relief of restraining the defendant from disconnecting the electricity supply to his workshop on account of default of electricity dues.

Thus the facts of the above two cases cited by the applicant are altogether different. In this case the suit is between the landlord and the tenant and the pleadings regarding the oral evidence of the sale of the suit accommodation has been superfluously made by the plaintiff in the plaint

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मामला क्रमांक C.R.129/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	and the same cannot be made a basis for valuation of the suit and payment of court fee. In the result, this court is of the opinion that there is no illegality or infirmity in the impugned order and the same does not require interference by this Court. Accordingly, the revision petition is dismissed at the admission stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	